

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN THE APPLICATION OF:

JOHN BROWSE

CASE NO.: BB1036USCNT

APPLICATION NO.: 09/219935

CONFIRMATION NO.: 4143

GROUP ART UNIT: 1638

EXAMINER: E. F. MCELWAIN

FILED: DECEMBER 23, 1998

FOR: FATTY ACID DESATURASE GENES FROM PLANTS

**REQUEST FOR RECONSIDERATION OF PETITION TO REVIVE PURSUANT TO
37 CFR §1.137(b)**

Via EFS-Web

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

This is a Request for Reconsideration of the DISMISSAL of the Petition to Revive US Application No. 09/219,935, "FATTY ACID DESATURASE GENES FROM PLANTS" dated October 21, 2009. The petition was filed April 8, 2009, and was submitted prior to receipt of a Notice of Abandonment for failure to timely respond to the Notice of Appeal dated September 3, 2008 for the above-identified application.

The petition was dismissed because "An appeal brief was not filed in response to the Notice of Appeal filed September 3, 2008." Under 37 CFR 1.137(b) (1) a "required reply" must accompany a grantable petition.

Although an appeal brief was not filed, a request for continued examination was filed along with the petition. As noted in the MPEP 706.07(h) Request for Continued Examination (RCE) Practice 35 U.S.C. 132 Notice of rejection; reexamination:

Adjustment date: 03/10/2011 CKHLOK
12/21/2009 INTFSW 00000131 041928 09219935
01 FC:1453 1620.00 CR
02 FC:1254 1730.00 CR

Serial No.: 09/219935
Docket No.: BB1036USCNT
Confirmation No.: 4143
December 18, 2009

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Please charge the fee required in connection with the filing of this Petition to Revive, under 37 CFR §1.17(m), and any other fee that may be required in connection with the filing of this petition to Deposit Account No. 04-1928 (E. I. du Pont de Nemours and Company).

Respectfully submitted,

/Jonathon O. Narita/

JONATHON O. NARITA
ATTORNEY FOR APPLICANT
Registration No.: 53,369
Telephone: (302) 695-3127
Facsimile: (302) 892-1026

Date: December 18, 2009

REQUEST FOR PATENT FEE REFUND

1 Date of Request: 02/28/11 2 Serial/Patent # 09/219,935

3 Please refund the following fee(s):

4 PAPER
NUMBER

5 DATE
FILED

6 AMOUNT

Filing

Amendment

X Extension of Time

12/21/09

\$ 1,730.00

Notice of Appeal/Appeal

\$

X Petition

12/21/09

\$ 1,620.00

Issue

\$

Cert of Correction/Terminal Disc.

\$

Maintenance

\$

Assignment

\$

Other RCE

\$

7 TOTAL AMOUNT
OF REFUND

\$ 3,350.00

8 TO BE REFUNDED BY:

10 REASON:

Overpayment

Treasury Check

X

Credit Deposit A/C #:

Duplicate Payment

9

0 4 -- 1 9 2 8

X No Fee Due (Explanation):

Extension of time unnecessary and the petition fee was previously paid on 4/9/09.

11 REFUND REQUESTED BY:

TYPED/PRINTED NAME: Terri Johnson

TITLE: Paralegal Specialist

SIGNATURE: /Terri Johnson/

PHONE: (571) 272-2991

OFFICE: Office of Petitions

THIS SPACE RESERVED FOR FINANCE USE ONLY:

APPROVED:

DATE:

3/10/11

Instructions for completion of this form appear on the back. After completion, attach white and yellow copies to the official file and mail or hand-carry to:

Office of Finance
Refund Branch
Crystal Park One, Room 802B